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C O N F I D E N T I A L SECTION 01 OF 02 MANILA 001198

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TAGS: [PREL](#) [ECIN](#) [PHUM](#) [ASEAN](#) [RP](#)  
SUBJECT: PHILIPPINE VIEWS ON ASEAN CHARTER

REF: A. BANGKOK 1973  
[B](#). BANGKOK 1957  
[C](#). MANILA 0179

Classified By: Pol/C Scott Bellard, reasons 1.4 (b) and (d)

[1](#). Action request -- see para 9.

[2](#). (C) Summary. The drafting of the ASEAN Charter proceeds smoothly, with a goal of presenting a fairly complete version to the ASEAN Foreign Ministers by July 31. The "comprehensive but brief" document should lay out the ASEAN structure without creating a new supranational body. There will be no formal provision about expulsions or sanctions, since the ASEAN leaders had not endorsed this recommendation. Consensus -- but not necessarily unanimity -- will remain the norm. The Philippines is pushing for an ASEAN Human Rights Commission that might nonetheless have some enforcement powers. The current Philippine head of the High Level Task Force offered to brief the U.S. in person at the U.S.-ASEAN Dialogue in Washington on June 21. End Summary.

[3](#). (C) Retired Philippine Ambassador Rosario G. Manalo, head of the ASEAN Charter High Level Task Force during the Philippines' ASEAN chairmanship, briefed Pol/C on April 17 regarding latest developments in the drafting process. She expressed high confidence that the task force would be able to submit a fairly clean draft to the ASEAN Foreign Ministers by the ASEAN Ministerial Meeting July 31, although some bracketed language would likely remain for the Ministers to sort out before final presentation at the ASEAN Summit in Singapore. She emphasized that the Charter would be an "enabling instrument" that ASEAN leaders could eventually flesh out as needed, rather than a "detailed plan" or treaty. She explained that ASEAN recognized it needed this more formal structure in order to compete more effectively in an era of globalization, while also needing a more systemic "culture of compliance." She emphasized, however, that the key remained State responsibility, and that the outcome would not look like the European Union, with its supranational characteristics.

[4](#). (C) According to Manalo, the current goal was to have a "comprehensive but brief" document, well under ten pages, with key sections including:

- Preamble
- Purpose and Principles
- Legal personality
- Organizations and Structure
- Immunities and Privileges of the organization
- Budget and Financial Resources
- Administration
- Protocol procedures
- Dispute Settlement Mechanisms
- External Relations
- Ratification procedures.

Manalo said that the first two sections were "virtually

complete," while meetings in Hanoi April 17 and 18 would hammer out the sections on the legal personality and structure. She indicated that there would be at least three more meetings in order to meet the July 31 target.

¶15. (C) Manalo discounted press reports of a supposed recent decision to eliminate a provision about suspension of membership, expulsions, or sanctions. She clarified that the ASEAN leaders, as well as the foreign ministers, had explicitly not accepted this recommendation, and so this was never in the mandate of the task force to explore. She emphasized that the goal was instead to improve cohesiveness and strengthen cooperation, not punish individual members. She admitted that the leaders and foreign ministers had recognized that such a tool could affect any member, not Burma alone. She commented that the final language on dispute settlement mechanisms would be tricky, although some precedents exist relating to trade and the South East Asia Nuclear Free Zone. She nonetheless underscored that all members remained committed to consensus -- which, she emphasized, was quite different from unanimity -- rather than majority voting, except perhaps on more minor technical matters. She said that the task force was examining closely the UN Charter's Article 51 on peaceful resolution of disputes as a model for ASEAN's own dispute settlement mechanisms.

¶16. (C) According to Manalo, a key priority for the Philippines was the establishment of some sort of ASEAN Human Rights Commission, a recommendation from former Philippine President Fidel V. Ramos that the other Eminent Persons had vetoed at a meeting in Brunei. She claimed that President Gloria Macapagal Arroyo had successfully resurrected the proposal at the January Cebu Summit (ref c). The foreign

MANILA 00001198 002 OF 002

ministers at the AMM this summer will discuss the enabling provisions on this, including perhaps some sort of "enforcement" mechanisms. She said that Burma, Singapore, Laos, and Indonesia remained the most opposed to this proposal -- coming from different perspectives -- with Burma the most vocal. She indicated that one solution might be a more focused HRC, dealing initially perhaps only with the rights of women and children, since all ten ASEAN members were signatories of this UN convention.

¶17. (C) Manalo confirmed that each ASEAN member will have to ratify the Charter, unlike the procedures for ratification of the ASEAN Counterterrorism Convention. The discussion now centered on the exact time frame for this to happen to bring the Charter into effect. She said that she was pushing for a fairly brief period, perhaps only six months.

¶18. (C) Manalo described the dynamics of the task force as surprisingly good. One member, whose country she declined to identify, was more problematic than others, but mostly due to his insistence on repeated references to good governance and anti-corruption, which she said went against the general desire to keep the document concise. Overall, she commented, the task force members had come to see that they and their countries were even "more like-minded than we had realized."

¶19. (C) Action request: Manalo added that she and other members of the High Level Task Force had briefed the EU on the status of the ASEAN Charter drafting at the March Nuremberg meeting, and said that they would welcome the chance to brief the U.S. as well at the June 21 U.S.-ASEAN dialogue in Washington, if invited. Please advise on any response.

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